

which the reported information is obtained or derived is not considered an improper disclosure in violation of section 427 of Public Law 99–660.)

§ 1003.810 Amount of penalties.

The OIG may impose a penalty of not more than ⁷—

(a) \$11,000 for each payment for which there was a failure to report required information in accordance with § 1003.800(a)(1) or for each improper disclosure, use, or access to information in accordance with a determination under § 1003.800(b); and

(b) \$25,000 against a health plan for each failure to report information on an adverse action required to be reported in accordance with section 1128E of the Act and § 1003.800(a)(2).

§ 1003.820 Determinations regarding the amount of penalties.

In determining the amount of any penalty in accordance with this subpart, the OIG will consider the factors listed in § 1003.140.

Subpart I—CMPs for Select Agent Program Violations

SOURCE: 81 FR 88362, Dec. 7, 2016, unless otherwise noted.

§ 1003.900 Basis for civil money penalties.

The OIG may impose a penalty against any person who it determines in accordance with this part is involved in the possession or use in the United States, receipt from outside the United States or transfer within the United States, of select agents and toxins in violation of sections 351A(b) or (c) of the Public Health Service Act or 42 CFR part 73.

§ 1003.910 Amount of penalties.

For each individual violation of section 351A(b) or (c) of the Public Health Service Act or 42 CFR part 73, the OIG may impose a penalty of not more than \$250,000 in the case of an individual,

⁷The penalty amounts in this section are adjusted for inflation annually. Adjusted amounts are published at 45 CFR part 102.

and not more than \$500,000 in the case of any other person.⁸

§ 1003.920 Determinations regarding the amount of penalties.

In considering the factors listed in § 1003.140, aggravating circumstances include:

(a) The Responsible Official participated in or knew, or should have known, of the violation;

(b) The violation was a contributing factor to an unauthorized individual's access to or possession of a select agent or toxin, an individual's exposure to a select agent or toxin, or the unauthorized removal of a select agent or toxin from the person's physical location as identified on the person's certificate of registration; or

(c) The person previously received an observation, finding, or other statement of deficiency from the Department or the Department of Agriculture for the same or substantially similar conduct.

Subpart J—CMPs, Assessments, and Exclusions for Beneficiary Inducement Violations

SOURCE: 81 FR 88362, Dec. 7, 2016, unless otherwise noted.

§ 1003.1000 Basis for civil money penalties, assessments, and exclusions.

(a) The OIG may impose a penalty, an assessment, and an exclusion against any person who it determines offers or transfers remuneration (as defined in § 1003.110) to any individual eligible for benefits under Medicare or a State health care program that such person knows, or should know, is likely to influence such individual to order or to receive from a particular provider, practitioner, or supplier, any item or service for which payment may be made, in whole or in part, under Medicare or a State health care program.

(b) The OIG may impose a penalty against any person who it determines offered any financial or other incentive for an individual entitled to benefits

⁸The penalty amounts in this section are adjusted for inflation annually. Adjusted amounts are published at 45 CFR part 102.

§ 1003.1010

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under Medicare not to enroll, or to terminate enrollment, under a group health plan or a large group health plan that would, in the case of such enrollment, be a primary plan as defined in section 1862(b)(2)(A) of the Act.

§ 1003.1010 Amount of penalties and assessments.

The OIG may impose a penalty of not more than⁹—

(a) \$10,000 for each item or service for which payment may be made, in whole or in part, under Medicare or a State health care program, ordered by or received from a particular provider, practitioner, or supplier for a beneficiary who was offered or received remuneration in violation of § 1003.1000(a) that was likely to influence the beneficiary to order or receive the item or service from the provider, practitioner, or supplier, and an assessment of not more than 3 times the amount claimed for each such item or service and

(b) \$5,000 for each individual violation of § 1003.1000(b).

§ 1003.1020 Determinations regarding the amount of penalties and assessments and the period of exclusion.

In determining the amount of any penalty or assessment or the period of exclusion under this subpart, the OIG will consider the factors listed in § 1003.140, as well as the amount of remuneration or the amount or nature of any other incentive.

Subpart K—CMPs for the Sale of Medicare Supplemental Policies

SOURCE: 81 FR 88362, Dec. 7, 2016, unless otherwise noted.

§ 1003.1100 Basis for civil money penalties.

The OIG may impose a penalty against any person who—

(a) Knowingly and willfully makes or causes to be made or induces or seeks to induce the making of any false statement or representation of a material fact with respect to—

⁹The penalty amounts in this section are adjusted for inflation annually. Adjusted amounts are published at 45 CFR part 102.

(1) The compliance of any policy with the standards and requirements for Medicare supplemental policies set forth in section 1882(c) of the Act or in promulgating regulations, or

(2) The use of the emblem designed by the Secretary under section 1882(a) of the Act for use as an indication that a policy has received the Secretary's certification;

(b) Falsely assumes or pretends to be acting, or misrepresents in any way that he or she is acting, under the authority of or in association with Medicare or any Federal agency, for the purpose of selling or attempting to sell insurance, or in such pretended character demands, or obtains money, paper, documents, or anything of value;

(c) Knowingly, directly, or through his or her agent, mails or causes to be mailed any matter for the advertising, solicitation, or offer for sale of a Medicare supplemental policy, or the delivery of such a policy, in or into any State in which such policy has not been approved by the State commissioner or superintendent of insurance;

(d) Issues or sells to any individual entitled to benefits under Part A or enrolled under Part B of Medicare—

(1) A health insurance policy with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under Medicare or Medicaid,

(2) A health insurance policy (other than a Medicare supplemental policy) with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled, other than benefits to which the individual is entitled under a requirement of State or Federal law,

(3) In the case of an individual not electing a Part C plan, a Medicare supplemental policy with knowledge that the individual is entitled to benefits under another Medicare supplemental policy, or

(4) In the case of an individual electing a Part C plan, a Medicare supplemental policy with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under the Part C plan or under another Medicare supplemental policy;